

24 JULY 1946

I N D E X
of
WITNESSES

Prosecution's Witnesses

Ching Teh-chun

<u>Direct</u>	<u>Cross</u>
	2420
	to
	2476

I N D E X
of
EXHIBITS

(no exhibits)

1 Wednesday, 24 July, 1946

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before.

16 - - -

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18 (English to Japanese, Japanese to
19 English, English to Chinese, and Chinese to
20 English interpretation was made by the
21 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International Mili-
2 tary Tribunal for the Far East is now resumed.

3 THE PRESIDENT: All the accused are present
4 except OKAWA, who is represented by counsel.

5 Does any counsel desire to mention any matter?

6 Colonel Warren. Colonel, yesterday I misap-
7 preended a question you put, and I made an adverse com-
8 ment which was not warranted. I regret that.

9 - - -

10 C H I N G T E H - C H U N, called as a witness on
11 behalf of the prosecution, resumed the stand and
12 testified as follows:

13 CROSS-EXAMINATION (Continued)

14 BY MR. WARREN:

15 Q I believe the witness was answering a question
16 which he had not completed at our recess yesterday after-
17 noon.

18 A Will you please repeat your last question of
19 yesterday afternoon?

20 MR. WARREN: Will the reporter read the ques-
21 tion back to the witness?

22 OFFICIAL COURT REPORTER: Mr. Warren, I am
23 afraid we have not got the last question, as we assumed
24 that the transcript was delivered to you by this morning.

25 Q Reading from the record, the question was:

1 "I will explain. General, sir, as your answer came to
2 me it came to me that you were merely listening to
3 orders and that does not mean necessarily that an order
4 will be obeyed. What I want to know is were the orders
5 issued by the central government being promptly obeyed
6 by the officers in command of the various battalions or
7 whatever regiments or troops you had out there?" You
8 had started to answer in this manner: "Probably the
9 question you asked is due to the fact you don't under-
10 stand the system of the military command." And the
11 monitor said: "Channel of command," at which time we
12 adjourned.

13 A The central government order was surely and
14 suddenly being listened to and followed by the local
15 government. When I said that you don't understand --
16 when I said, when you put the question -- the question
17 you put is probably due to the fact that you don't under-
18 stand the channels of military command. Is that when you
19 asked me whether one command -- one battalion command or
20 regiment or troops you have ordered would probably obey
21 the government?

22 Q I take it then, General, sir, that you mean to
23 express that when Generalissimo Chiang Kai-shek issued
24 an order to one of his subordinates that it was promptly
25 obeyed and placed into effect?

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1 A Yes, it is so. Of course, so far as procedure
2 is concerned, it is not that the order will be given
3 direct by the Generalissimo to the local command or
4 regiment or battalion.

5 Q I am sorry that I confused you, General. I
6 am very well aware of the chain of command, but on
7 page 6 of your affidavit you made this statement:
8 "Some time before this, repeated telegrams from our
9 Supreme Commander," and then in parentheses, "General-
10 issimo Chiang," "ordered General Sung, Chairman of
11 the Hopei-Ghahar Political Council to proceed to
12 Paoting (in southern Hopei) and to direct operations
13 from there."

14 General, sir, Sung now acted as directed by
15 these orders. Why was it necessary for Generalissimo
16 Chiang Kai-shek to send repeated telegraphic orders to
17 his subordinates before they were obeyed?

18 A The order the Generalissimo sent to us was
19 exhortative in nature. It ordered us to leave Peiping
20 and to proceed to Fu-ping at the opportune moment.
21 The order is purely exhortative in nature and is not
22 a strict command.

23 Q General, sir, is it not true that throughout
24 the army of which you are a member, that the generals
25 have a certain autonomy of their own, unknown to

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1 military commands and channels in any other civilized
2 nation?

3 A Do you mean to ask that the Chinese Army has
4 its own peculiar characteristics, different from other
5 armies of civilized nations -- armies of other civilized
6 nations?

7 THE PRESIDENT: If he heard the question he
8 should answer yes or no.

9 A The Chinese Army -- the nature and character
10 of the Chinese Army is the same as any army of any
11 other civilized nation. They don't have any autonomy
12 character, as you said.

13 Q General, sir, are you acquainted with the
14 Lytton Report?

15 A I don't know.

16 Q The Lytton Report is a report made by a com-
17 mission of inquiry appointed by the League of Nations
18 following the Manchurian Incident, which you have re-
19 ferred to on several occasions.

20 A It is not that I don't know of this Lytton
21 Report. It is that that report concerns with the Man-
22 churian Affairs only, which is not within the scope of
23 which I am going to testify.

24 Q General, sir, I am going to read from page 16
25 of the Lytton Report, starting with the second sentence

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1 in the last paragraph on that page, which refers to
2 the commencement of your political party in China.
3 Quoting: "The party was now ready to put into opera-
4 tion its schemes of political and economic reconstruc-
5 tion, but was prevented from doing so by internal
6 dissensions, the periodical revolt of various
7 Generals with personal armies, and the menace of
8 Communism. In fact, the Central Government had
9 repeatedly to fight for its very existence."

10 COLONEL MORROW: If the Court please, I should
11 like to have the record show what date he refers to.

12 MR. WARREN: They introduced the Lytton Re-
13 port, your Honor.

14 Q Now General, sir, do you know of any other
15 nation that has generals with personal armies of
16 their own?

17 A I don't think there is any nation whose
18 generals have their own private troops or armies.

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1 Q Now, General, sir, is it not true that from
2 1927, the date that the Lytton Report makes refer-
3 ence to on the quotation, to the very present time
4 that Generalissimo Chiang Kai-shek has not been able
5 to enforce his orders with his subordinate generals
6 in many instances if they did not desire to obey
7 those orders?

8 A I am feeling that the question you are
9 putting to me is having very little relevancy to
10 the question at issue.

11 THE PRESIDENT: The witness must answer.

12 A (Continuing): The orders issued by the
13 Generalissimo will surely and naturally be thoroughly
14 executed by the various departments and troops and
15 commands.

16 Q General, sir, reading from page 19 of the
17 Lytton Report, it is the last two sentences in the
18 second paragraph on that page. I am quoting now.
19 "The transfer of a commander from one army to another
20 by order of the Central Government is, in many cases,
21 impossible. The danger of civil war must continue
22 to exist so long as the Central Government lacks
23 the material means to make its authority swiftly and
24 permanently felt all over the country."

25 General, sir, do you deny that such statement

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1 made by the Lytton Commission to the League of
2 Nations is not true?

3 A In principle, I agree with the report
4 made by the Lytton Commission, but that report
5 was compiled in 1931 while the incident to which
6 I am testifying, that is, the July 7th Incident,
7 happened in 1937, which was several years later.

8 THE PRESIDENT: I suppose you are testing
9 his credibility on that report, Colonel Warren;
10 subject to that, there is not much occasion to
11 cross-examine extensively on it.

12 MR. WARREN: I had another matter in mind,
13 but I am going to terminate this phase of my cross-
14 examination in a very few questions, your Honor.

15 Q Is it not true, General, sir, that the same
16 condition prevailed at the time of the incident
17 about which you first testified and that it prevails
18 to this very good day?

19 A Well, while the facts presented by the
20 Lytton Report might be true, might be factually
21 true, I would like to point out that during the time
22 the July 7th Incident occurred, the peace and order
23 in the area that was under the jurisdiction of
24 Hopei-Chahar Political Council was well maintained
25 and the Army were well under the Central Government's

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1 control.

2 THE CHINESE MONITOR: And no Communism
3 threatened either.

4 Q The fact still remains, General, sir, is
5 it not true, that Japan had no single responsible
6 government in China with which they could treat
7 with reference to the safeguarding of their nationals
8 and of their property rights which they had gained
9 by treaty?

10 A That is not a fact. In so far as the
11 protection of Japanese property and persons is
12 concerned, the local government is taking full charge
13 and has been taking full charge.

14 Q General, sir, that is precisely what I
15 wish to clarify. Were the Japanese forced to treat
16 with a local government or could they or did they
17 have a responsible national government in China with
18 which they could treat at that time?

19 A The Japanese was playing a multiple policy
20 of diplomacy. They were on one hand negotiating
21 with the local government while, on the other, they
22 were negotiating with the Central Government in
23 Nanking.

24 THE CHINESE MONITOR: "By their ambassador."

25 Q Is it not true that because of local autonomy

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1 which existed in various parts of China that it was
2 necessary for Japan or any other nation in China
3 to do exactly as Japan did in order to protect her
4 nationals?

5 A No. There was never anything like autonomy
6 existing as you said but it is true that the Japanese,
7 that Japan was trying to create some sort of autonomy
8 out of the situation.

9 Do you want me to give you a factual example to
10 illustrate that England, America or France has never
11 done anything like what Japan did?

12 THE INTERPRETER: Correction, please. The
13 witness put it in plain statement. It is not a
14 question. He said he wants to give a factual ex-
15 ample to illustrate that.

16 MR. WARREN: As far as I am personally con-
17 cerned, I don't care to hear it. Does the Court
18 desire to hear it?

19 THE PRESIDENT: He seemed to be making a
20 statement and not a question to you. I may misap-
21 prehend what he said but he seemed to say, in effect,
22 that England, France and the other countries did not
23 do what Japan did.

24 A (Continuing): As far as when local govern-
25 ment was then concerned, we had never had very much

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1 diplomatic negotiations with either France or
2 England or America.

3 THE CHINESE MONITOR: "Except with Japan."

4 MR. WARREN: Shall I proceed, your Honor?

5 THE PRESIDENT: Yes, proceed.
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1 MR. WARREN: With reference to local autonomy,
2 I desire to read to you General, sir, from the Lytton
3 Report, on page 127, the first paragraph, which makes
4 reference to the dispute over the Mukden Incident, to
5 which you have referred. Quoting: "The dispute has
6 arisen between two States, both Members of the
7 League, concerning a territory the size of France and
8 Germany combined, in which both claim to have rights
9 and interests, only some of which are clearly de-
10 fined by international law; a territory which, al-
11 though legally an integral part of China, had a
12 sufficiently autonomous character to carry on direct
13 negotiations with Japan on the matters which lay at
14 the root of this conflict."

15 MR. WARREN: Did he answer.

16 THE PRESIDENT: You did not complete your
17 question.

18 MR. WARREN: Oh, I am sorry; I thought I
19 had, your Honor.

20 Q (Continuing) Do you disagree with the Lytton
21 Report, with reference to the power of local govern-
22 ments within their own autonomy?

23 A While I admit the Lytton Report, in broad
24 principle, I want to remind you that that report, as
25 I said, was compiled in 1931, and what I am testifying

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1 to is the event that happened on July 7, 1937. The
2 Pearl Harbor case happened in 1940, or 1941. Now
3 it is 1946. You will have to pay some attention to
4 the time element.

5 Now I think it is my turn to put you a
6 question.

7 THE PRESIDENT: We do not want any questions
8 from the witness. The witness may turn his question
9 into a statement.

10 Q General, sir, I shall ask you in what manner
11 the situation has changed with reference to the con-
12 tinuous autonomy of local governments in China from
13 1931 to July 24, 1946.

14 A Ever since September 18, 1931, up to 1932
15 winter, or spring of 1933, when Japan occupied the
16 Province of Jehol, and until the establishment of
17 the Hopei-Chahar Political Council, the local govern-
18 ment was always listening to and following the orders
19 of the Chinese National Government.

20 INTERPRETER: Correction: since the estab-
21 lishment of Hopei and Chahar Political Council, the
22 North China Government, or the local government in
23 North China, has been obeying and following the in-
24 structions and orders from the Central Government.
25 There is no autonomy existing in North China.

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1 Q Not even at the present date?

2 A The present situation is, of course, a little
3 bit complex and complicated.

4 Q Was not the then present situation at the
5 time of the Marco Polo Incident a little complex?

6 THE PRESIDENT: That expression, "a little
7 complex," renders your question practically valueless.

8 MR. WARREN: Well, it may, your Honor, but
9 the witness used the same term and I want him to
10 explain. This witness has consistently avoided my
11 questions.

12 THE PRESIDENT: At least, you should be
13 specific and not follow bad examples.

14 MR. WARREN: That's right. I am going to
15 get off of that subject at the present time and skip
16 to another one, your Honor.

17 Q Yesterday, General, sir, in the cross-examina-
18 tion, I asked you if Japan had not suffered more loss
19 as a result of lawlessness in Japan, both to her
20 nationals and property, than any other nation. You
21 eventually answered that she had not. Permit a
22 correction, will you? I said China when I meant
23 Japan, that Japan had lost more. Does that question
24 make sense yet? I will repeat the question, your
25 Honor. I have used the wrong word to correct it.

1 I don't know where I made it.

2 THE PRESIDENT: This is a convenient break.
3 We will recess now for fifteen minutes.

4 (Whereupon, at 1045, a recess was
5 taken until 1100, after which the proceedings
6 were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Colonel Warren.

4 MR. WARREN: Thank you, sir.

5 BY MR. WARREN (Continuing):

6 Q General, sir, yesterday in answer to one of
7 my interrogations you stated that Japan had not suf-
8 fered more losses as a result of banditry in China
9 than any other nation. I desire to read to you from
10 the Lytton Report, on page 23, the third paragraph
11 and the first sentence of the fourth paragraph.

12 "So far as Japan is China's nearest neighbour
13 and largest customer, she has suffered more than any
14 other Power from the lawless conditions described
15 in this chapter. Over two-thirds of the foreign
16 residents in China are Japanese, and the number of
17 Koreans in Manchuria is estimated at about 800,000.
18 She has more nationals, therefore, than any other
19 Power, who would suffer if they were made amenable to
20 Chinese law, justice and taxation under present
21 conditions.

22 "Japan felt it impossible to satisfy Chinese
23 aspirations so long as satisfactory safeguards to take
24 the place of her Treaty rights could not be hoped for."

25 Do you now desire to change your answer to

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1 the previous question, or do you wish to state that
2 the Lytton Report on that question is inaccurate?

3 A I want neither to amend what I have said
4 yesterday, because what I said yesterday was true;
5 nor do I deny the Lytton Report, because the Lytton
6 Report has its own time element involved. If there
7 is no time element involved in the Lytton Report,
8 then would you uphold the statement that Korea has
9 about 800,000 Koreans inhabited in Manchuria then as
10 now?

11 THE PRESIDENT: Do you propose to refer fur-
12 ther to the Lytton Report, Colonel Warren?

13 MR. WARREN: There is very much on that same
14 question, but that is the meat of it, your Honor. I
15 see no necessity. He stated one thing yesterday; the
16 Lytton Report is diametrically opposite to that. This
17 is, as I understand it, his Government's official
18 version, which he denied yesterday. I want to see now
19 whether he is going to repudiate the official version
20 of his Government, or whether he is going to change
21 his answer.

22 THE PRESIDENT: Instead of reading long
23 passages you may be able to paraphrase.

24 MR. WARREN: Oh, I am sorry, sir. I
25 entirely misinterpreted your Honor's question. This

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1 is the last question I will ask from the Lytton Re-
2 port. I am through with it on this one.

3 But I should like to ask the Tribunal to
4 require this witness to answer that question.

5 THE PRESIDENT: I think the answer is suf-
6 ficient for our purposes.

7 MR. WARREN: Your Honor, he has never
8 answered the question. He says, "I do not repudiate
9 the Lytton Report, and I do not change my answer."

10 THE PRESIDENT: Well, that is his answer, you
11 see. We cannot improve on that.

12 Q General, sir, in your affidavit, on the last
13 page -- this is now prosecution exhibit No. 198 to
14 which I am referring -- you make the statement:

15 "But the instigator at the very beginning of
16 Japanese aggression in North China was DOHIHARA, Kenji,
17 the same man who instigated the Mukden Incident of
18 September 18, 1931."

19 Without supporting facts your statement stands
20 as a conclusion. Will you give us the facts upon
21 which you base that conclusion? If you have no facts,
22 will you so state.

23 A This statement of mine was concerned mainly
24 with what happened on July 7, 1937. This last para-
25 graph is not the main theme of the statement.

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1 As to DOHIHARA's responsibility for the out-
2 break of Mukden Incident, there was one important
3 witness who had already given his statement testifying
4 to that. And the fact that DOHIHARA was the responsi-
5 ble figure in Mukden Incident is practically known
6 to every one of Chinese population.

7 Q General, sir, if you have a single fact to
8 base up that conclusion -- I mean, to back up that
9 conclusion, will you please state that one single fact
10 to this Tribunal?

11 A I have already supplied you with the answer
12 when the previous defense counsel was asking me the
13 same question. That time I said that although DOHI-
14 HARA was then not in Mukden, but the fact that he was
15 not in Mukden does not exonerate him from not being
16 responsible for the incident.

17 Q General, sir, that is not a fact. That is a
18 conclusion. Will you please tell this Tribunal, if
19 you have facts, what they are. If you do not have
20 them, please tell them you do not have the facts.

21 A I have many facts to support my statement.
22 Do you want me to enumerate the facts one by one right
23 here in this courtroom?

24 Q General, sir, I have asked for facts in the
25 courtroom. I would like for you to state those facts

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1 to the Tribunal here in the courtroom.

2 A DOHIHARA was a long resident in China, and
3 had made a great number of friends, associates. A
4 week prior to the happening of the September 18 inci-
5 dent many friends, mutual friends -- this means a few
6 friends between the General and DOHIHARA -- many mutual
7 friends had told General -- told me, that DOHIHARA is
8 about going to Manchuria to embark on some big project.

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1 Q General, sir, I have asked for facts. Will
2 you state the names or some of the names of those
3 friends of yours, where the conversation took place,
4 at what time, and under what circumstances?

5 A There was a certain Mr. Chang and a Japanese
6 by the name of SHIBAYAMA, five days before the happen-
7 ing of the Mukden Incident, held a conversation in a
8 place known as Chungshan Park in Peiping.

9 Q Will you please state specifically what they
10 told you?

11 A What they told me was the Air Marshal,
12 Chang-Hsuehlian, could not cooperate with Japan;
13 therefore, he should be thrown out.

14 Q Is that all they told you?

15 A Of course, they told me a little more. They
16 said that the Japanese Government had an overall pro-
17 ject and that DOHIHARA and his people are working on
18 this project. I told them that since Chang-Hsuehlian
19 is now following -- obeying the order of the Central
20 Government, I could not very well do this -- I didn't
21 approve the plan.

22 Q What is the full name of this one certain Mr.
23 Chang and the Japanese by the name of SHIBAYAMA? What
24 are their full names?

25 A I cannot recall their full names.

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1 Q General, maybe we can shorten this by asking
2 you this question: Do you have any personal knowledge
3 of any facts that would lead you to make the state-
4 ment that I questioned you about?

5 A Now, I can tell you that DOHIHARA was the
6 responsible figure in effecting the outbreak of the
7 July 7 Incident. I said that because I was person-
8 ally in the scene and handling the negotiations with
9 him. As to the outbreak of the Mukden Incident, I
10 can tell you, on top of what I was told by that cer-
11 tain Mr. Chang and others, about that conversation
12 I have just told you. I have learned it from other
13 friends and from papers, too -- newspapers.

14 Q You have testified about the July 7 Incident,
15 but then I take it that you have no personal knowl-
16 edge of anything concerning the Mukden Incident,
17 isn't that correct?

18 A As I have told you, I am here as a witness
19 testifying to what happened on July 7, 1937. I am
20 not testifying to what happened on September 18, 1931.

21 MR. WARREN: If the Tribunal please, I feel
22 that this proceeding could be speeded up tremendous-
23 ly if the Tribunal would require this witness to
24 answer questions. He refuses to do it.

25 THE PRESIDENT: The strict, technical

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1 position is, if it applies here, that he must answer
2 all questions relevant to the issue whether he testi-
3 fied to all these matters in chief or not. But,
4 surely, you must be satisfied that he has told you all
5 he knows.

6 MR. WARREN: Your Honor, this witness has
7 attempted to evade every point upon which impeachment
8 has been laid -- when he has learned that impeachment
9 is about to be made. Every consistent statement he
10 has refused to answer. If the Tribunal is satisfied,
11 I am satisfied. I don't care to cross-examine him
12 further. But, I do think these witnesses should be
13 required to answer questions and not evade answers
14 like they have been doing.

15 That's all, sir. Thank you very much, sir.

16 THE PRESIDENT: If the Tribunal thought for
17 one moment that that witness was withholding facts
18 within his knowledge, we would compel him to answer.

19 Major Blakeney.

20 CROSS-EXAMINATION (Continued)

21 BY MAJOR BLAKENEY:

22 Q Mr. Witness, I refer your attention to ex-
23 hibit No. 199, being your statement on the Northern
24 Chahar Incident. On the first page of the English
25 version of this document you speak of the Changpeh

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1 Incident.

2 After tracing the negotiations concerning
3 this Incident, you say that the matter was referred
4 to the headquarters of the Japanese garrison forces in
5 Tientsin. On what date was it referred to that head-
6 quarters?

7 A I cannot recall the exact date, but it is
8 somewhere around the third day after the happening of
9 this matter. Originally, this matter should have been
10 handled and settled by the Japanese Consulate at
11 Kalgan; but, as the Japanese was trying to aggravate
12 the matter, so they referred it to the garrison forces
13 headquarters in Tientsin.

14 Q Did you, yourself, discuss the matter with
15 the headquarters of the Japanese garrison in Tientsin?

16 A No. I never personally handled the matter
17 with them. The headquarters -- the garrison head-
18 quarters in Tientsin sent DOHIHARA as their represent-
19 ative to Peiping to discuss the matter with me.

20 Q Then, when you said that the matter was
21 referred to Japanese headquarters in Tientsin, you
22 mean that it was referred to the Japanese headquart-
23 ers represented by General DOHIHARA; is that correct?

24 A Yes.

25 Q And that was -- that headquarters represented

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1 by General DOHIHARA was the headquarters of the
2 Japanese North China garrison in Tientsin; is that
3 correct?

4 A At that time DOHIHARA was assuming double
5 personality: On one hand he was representing the
6 Special Service Command of the Japanese Kwantung
7 Army in Manchuria, and on the other hand he was also
8 representing the garrison commander in Tientsin --
9 the Japanese garrison commander in Tientsin.

10 By "Special Service" is meant "Intelligence
11 Service."

12 Q Are you as sure of that as you are of all
13 the rest of your testimony?

14 THE PRESIDENT: Witness need not answer.

15 MAJOR BLAKENEY: That's all.

16 MR. HAYASHI: I am HAYASHI, Itsuro, counsel
17 for the defendant HASHIMOTO, Kingoro.

18 CROSS-EXAMINATION (Continued)

19 BY MR. HAYASHI:

20 Q On July 7, 1937, at the time of the outbreak
21 of the Lukuochiao Incident, what was the strength of
22 the 37th Division under the command of General Feng-
23 Chihan?

24 A Approximately fourteen or fifteen thousand
25 men.

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1 Q What was the strength of the 29th Army which
2 was composed of the 37th Division, the 38th Division,
3 the 143rd Division, and the 132nd Division?

4 A Approximately sixty thousand men.

5 Q Are you aware that the Chinese Government
6 issued an order -- a mobilization order on the 9th
7 of July, 1937?

8 A I never received any order like that.

9 Q Are you aware of the fact that on the 29th
10 of July the Chinese Government -- China sent a large
11 army composed of thirty divisions northwards?

12 A What do you mean by "from south"? From
13 which point do you mean? Pao-Ting -- at Pao-Ting
14 the Central Government had some troops.

15 Q Are you aware that, on the orders of Gener-
16 alissimo Chiang Kai-shek, a large army was despatched
17 toward Lukuochiao?

18 A There was no such an order.

19 Q Even if you, yourself, did not personally
20 receive such an order, are you not aware that General
21 Chiang did issue such an order?

22 THE MONITOR: I would like to make a
23 correction here: Instead of "issued an order, do
24 you know what General Chiang Kai-shek did"?

25 A Prior to 29 of July there was no movement

CHING

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1 of troops on the part of China at all. But, after
2 29 of July, when the Japanese troops moved -- marched
3 into and toward Peiping -- half occupied Peiping --
4 the Central Government had ordered the Chinese troops
5 to move from Pao-Ting -- to establish defense north
6 of Pao-Ting.

7 THE PRESIDENT: We will adjourn now until
8 half-past one.

9 (Whereupon, at 1200, a recess was
10 taken.)

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal is now resumed.

MR. HAYASHI: I shall continue my cross-examination.

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CHING TEH - CHUN, called as a witness on behalf of the prosecution, resumed the stand and testified as follows:

BY MR. HAYASHI (Continued):

Q Do you know whether the Chinese Government on July 9, 1937, issued a mobilization order, or do you not know?

A I have never received any mobilization order at that time. I was then only at Lukuo-chiao.

Q I am not asking you whether you received the order or not. I am asking you whether or not you know whether such an order was issued?

A Most probably there wasn't, because if there was I should have received it.

Q Is Mr. Wanglong chai a man to be trusted -- a man of noble character, worthy to be trusted?

A He is one of my inferiors -- he is one of my

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1 subordinates. I think he is trustworthy.

2 Q What position did Wanglong chai hold at the
3 time of the Lukuoohiao Incident?

4 A He was then a special commissioner in charge of
5 three districts then, and concurrently he was the magis-
6 trate of Wangping District.

7 Q You have stated that an agreement was signed
8 on July 19, 1937, whereby the -- whereby concerning the
9 garrisoning of the Marco Polo Bridge and Wangping-Hsien
10 it was agreed that the 37th Division of the 29th Army,
11 which was rather hostile to Japan, should be moved to
12 another area, and that ~~some~~ other division should be
13 assigned to garrison the above-mentioned area. Is this
14 correct?

15 THE MONITOR: Correction: Some other unit
16 instead of division.

17 A It was not on the 19th. It most probably was
18 the 9th of July there was such a matter.

19 Q Between who and who was this agreement signed?

20 A At that time parties to the negotiation were,
21 on the part of China, myself and one General Chang Tzu
22 Chung; and on the part of Japan, the one MATSUI, Com-
23 mander of the Special Service Command, and another one
24 whose name I don't quite remember. The agreement was
25 signed by General Chang Tzu Chung and MATSUI.

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1 THE MONITOR: That special service meant
2 military intelligence command.

3 Q Was General DOHIHARA concerned in any way
4 with the signing of this agreement?

5 A No.

6 Q Then, do you admit that the 37th Division was
7 more hostile in feeling toward Japan than the other
8 divisions?

9 A Speaking of the 29th Army as a whole, if Japan
10 did not try to invade China, or did not invade China,
11 the feeling will always be amiable. If Japan -- in the
12 case of Japan's invasion, the feeling against the
13 Japanese Army is always unfavorable. This is not the
14 feeling of the 37th Division alone.

15 Q Does it not then follow that with the signing
16 of this agreement on the 9th of July, the incident which
17 had broken out at Lukuoohiao was for the time being
18 solved?

19 A It was our intent then to execute the agree-
20 ment which was concluded and then consider as having
21 the matter settled, but as of the 11th of July the
22 Japanese Cabinet decided to send more troops and push
23 forward their project, the fighting resumed.

24 THE MONITOR: Correction: Then the incident
25 was not considered solved then, but just the agreement

CHING

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1 was the first step to solve the incident, but later
2 on Japan marched more troops and the fighting started
3 all over again.

4 Q Our interpretation is, that with the signing
5 of this treaty the Lukuoohiao Incident was settled.
6 What happened later we shall not consider at the
7 present moment; but am I correct in my assumption that
8 with the signing of this agreement this incident --
9 this particular incident was settled?

10 A The resumption of fighting was a continuation
11 of what happened on July 7. At that time the Chinese
12 authorities were willing to have the matter amiably
13 settled, but as Japan pushed forward again the hostili-
14 ties broke out.

15 Q Did not the Chinese decide immediately to carry
16 out their withdrawal of the 37th Division in accordance
17 with the provisions of this agreement?

18 A Yes. The Chinese Government then, following
19 the agreement, ordered the transfer of the 37th Division
20 to some other location.

21 Q Does it not then follow that by the very fact
22 that the 37th Division was withdrawn in accordance with
23 the agreement that the Lukuoohiao Incident had been
24 solved?

25 A That was but one of the terms and conditions

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1 agreed. There were still other terms which both of the
2 parties were obliged to carry out.

3 THE MONITOR: And remained unsolved.

4 THE INTERPRETER: And remained uncarried out.

5 Q Are you aware of the fact that on July 22, the
6 Vice Chief of the Army General Staff, General Hsun-ping,
7 suddenly arrived in Peiping?

8 A He was there in Peiping at that time, but
9 whether it was on the 22nd or not, I cannot recall
10 exactly.

11 Q Although the Chinese, in accordance with the
12 above-mentioned agreement, had begun the withdrawal of
13 the 37th Division, is it not true that with the sudden
14 arrival of General Hsun-ping the Chinese suddenly changed
15 their attitude?

16 A No. There was the difference of timing, I
17 think.

18 Q Did the Japanese, in a very conciliatory atti-
19 tude, ask for the transfer of the 37th Division on the
20 26th of July?

21 A It was not in a conciliatory attitude; it was
22 made in the form of an ultimatum. We were demanded to
23 have the 37th Division withdrawn within twenty-four
24 hours from Peiping.

25 Q Were the Chinese very angry on receiving this

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1 ultimatum?

2 A Yes.

3 Q Upon this, did the Chinese begin a vigorous
4 offensive on all fronts and commence action against
5 the Japanese at Feng-tai?

6 A There was a continuation of the previous
7 hostilities started by the Japanese. We used three
8 regiments -- we sent three regiments of troops to
9 Feng-tai.

10 THE MONITOR: And it was only a tactic of
11 war.

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1 Q Who is the Commander of the troops who
2 attacked, who shelled Feng-Tai?

3 A I cannot recall quite accurately but I think
4 he is a Regiment Commander named Ho.

5 THE CHINESE MONITOR: "The force attacking
6 Feng-Tai were formed by two regiments from 37th Di-
7 vision and one regiment from 38th Division and they
8 were all under the command of Brigadier General Ho."

9 Q Who is the person who ordered this attack on
10 Feng-Tai and the advance on all fronts?

11 A The fighting was in progress ever since July
12 7th. The order was given by General Sun-Cheyuan.

13 THE CHINESE MONITOR: "Attacking order was given
14 by General Sung Che-yuan on July 26th."

15 Q Do you not consider that the Sino-Japanese
16 hostilities began because, although the Japanese side
17 had only communicated to the Chinese their desire that
18 the provisions of the agreement of July 9th be carried
19 out, the Chinese did not carry out these provisions
20 and illegally opened an offensive against the Japanese?

21 A I think that was due to you not knowing the
22 situation fully. The Japanese started offensive on the
23 July 7th and on the July 9th there was some sort of
24 negotiations and some result was obtained but, due to
25 Japan not observing these agreements and increasing

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1 their troops on the 14th, there was a constant contin-
2 uation of hostilities on the 26th of July.

3 THE CHINESE MONITOR: "The fighting was re-
4 sumed on the 14th of July, not on the 26th of July.
5 The 26th of July, attacking order was only a technique
6 of waging war."

7 Q If that is so, then when was the transferring
8 of the 37th Division carried out; from what day of what
9 month to what day of what month?

10 A The agreement made on the 9th of July was to
11 the effect that only that portion of 37th Division
12 Army stationed at Lukouchiao should be withdrawn. It
13 was not to the effect that all 37th Division should be
14 withdrawn from the area of Hopei. As far as that part
15 of 37th Division stationed at Lukouchiao, the withdrawal
16 was carried out on the tenth following the agreement
17 made on the ninth.

18 Q Do you mean to say then that does not in-
19 clude the section of the 37th Division that was guarding
20 Wanping?

21 A That part that was obliged to withdraw was
22 that small number of troops stationed at the Wangping
23 city under the regiment command of Regiment Commander
24 Chi-Hsingwen.

25 Q If it is true that on July 10th the 37th

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1 Division had already withdrawn from Wanping City and
2 from Lukouchiao, there would be no need for the Chinese
3 Army to be angry because of any demand made by the
4 Japanese on July 26th for such a withdrawal?

5 A As regards to the agreed withdrawal of that
6 small number of troops stationed at Lukouchiao, there
7 was agreed by China with a view to secure peace and
8 minimize any imminent threat of war. As to Japanese
9 demand to have the whole 37th Division Army withdrawn
10 to some other place, there was encroaching upon the
11 sovereign rights of China. Of course, that cannot be
12 accommodated for --

13 THE CHINESE MONITOR: "Cannot be compromised."

14 Q I shall question you on another point. On
15 July 9th, at the time when the agreement was signed,
16 did you consider that the Incident of July 7th con-
17 stituted a war?

18 A At the time we signed that agreement on the
19 9th of July, it was my hope that these incidents would
20 not be continued and would not be further aggravated --

21 THE CHINESE MONITOR: "Into war."

22 Q My question was: Did you consider that the
23 Incident of July 7th was a war or was not a war?

24 A Prior to the Marco Polo Bridge Incident there
25 were two minor incidents similar to what happened on

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1 July 7th. One was Tengchatzu Incident. That was an
2 incident that happened in the Province of Chahar.
3 And another was an incident that happened in September,
4 1936 at Feng-Tai.

5 THE CHINESE MONITOR: "They were all solved
6 by compromise."

7 A (Continuing): At the beginning I considered
8 the Marco Polo Bridge Incident as a local affair, but,
9 unfortunately, on the 11th of July, 1937, the Japanese
10 Cabinet under the late KONOYE had passed a resolution
11 to the effect that they will send forth a bigger number
12 of Army --

13 THE CHINESE MONITOR: "to North China."

14 Q Since you insist on not answering my question,
15 I shall withdraw this and turn to my next -- turn to
16 the next phase.

17 On July 9th, at the very moment when the agreement
18 was signed, did hostilities between Japan and China
19 cease?

20 A For a moment it was ceased but the fighting
21 ceased in daytime, resumed in nighttime.

22 THE CHINESE MONITOR: "The Japanese opened
23 up gunfire in the nighttime," correction.

24 Q Are you aware of the fact that a strong attack
25 having been launched on Feng-Tai by the Chinese and a

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1 general advance on all fronts having been begun,
2 General KASUKI, Commander of the Japanese forces, de-
3 clared that all possible efforts having been in vain,
4 we shall be obliged to take punitive measures?

5 A The hostilities started on the 7th of July
6 and it was intensified on the 8th and on the 14th of
7 July the fighting was again very much intensified. On
8 the 26th of July we started attacking Feng-Tai --

9 THE CHINESE MONITOR: "27th."

10 A (Continuing): And on the 28th the Japanese
11 Commander KATSUKI started attacking Nangyuan.

12 Q Was the first attack by a large force car-
13 ried out by the Chinese Army on Feng-Tai and the
14 attack on Nangyuan by the Japanese carried out later
15 after that attack?

16 A Yes, it is true that the attack on Feng-Tai
17 took place before the Japanese attack on Nangyuan.
18 But, ever since July 7th, Japan has a much big number
19 of troops in Hopei and started warlike actions.

20 THE CHINESE MONITOR: "And attacking in various
21 places."

22 Q Then, does it not follow that instead of
23 solving local problems by agreements, by local agree-
24 ments but -- I shall repeat that question. Then,
25 instead of solving local problems by local agreements

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1 and, instead of doing this, starting a large-scale war
2 as a state by moving large forces, was this not first
3 carried out by the Chinese side and not by the Japan-
4 ese?

5 A It was Japan who first started moving troops
6 from Kwantung. It was Japan who first started moving
7 Kwantung troops to Tientsin and then to Lukouchiao,
8 and then to Feng-Tai. It was not China who started
9 the all-offensive warfare.

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1 Q My question was not concerned with troop
2 movements. What I wanted to ask you was, was it not
3 the Chinese side that first started a large scale
4 attack using large forces?

5 A The time of the outbreak of the July 7th
6 affair both sides were employing troops of a size more
7 than a brigade.

8 MONITOR: Correction. Prior to the Chinese
9 attack on Feng-tai, both sides were using troops
10 greater than a brigade.

11 Q Was not the Chinese Army responsible for the
12 fact that a large scale war finally did break out, if
13 forces only approximating one brigade had been used up
14 to then and if it had been possible up to then to solve
15 these local problems by local agreements and especially
16 by diplomatic negotiations?

17 MONITOR: Slight correction. Was it not the
18 Chinese Army itself who brought the situation into an
19 open hostility in spite of the fact that it would have
20 been possible to settle the problem by means of
21 diplomacy locally if forces involved were only the
22 size of a brigade?

23 A It was Japan who first initiated the war.
24 Naturally Japan should be responsible. It is my
25 opinion that to decide who should be responsible for

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1 the war is who fired the first shot, is not who used
2 the bigger army. There is no such international differ-
3 ence, definition, in a bigger force or a smaller force.
4 What is the difference between bigger forces and
5 smaller forces, such as more than a thousand or less than
6 a thousand?

7 Q Since that is not an answer to my question,
8 I shall repeat my question.

9 A If you don't want to listen to my statements
10 or answers, then you don't have to ask me to testify.

11 Q My question was, do you not consider that the
12 Chinese Army, that the Chinese side, was responsible
13 for first using large forces at a time when the
14 Incident could have been settled locally by diplomacy --
15 when the problem was one that was easily solvable on
16 the spot by diplomacy and at a time when it was easily
17 solvable?

18 A This responsibility rests with Japan.

19 Q I shall terminate my questioning as you have
20 only given statements which had nothing to do with my
21 questions and did not give me any direct answers at
22 all.

23 A You said that China should be responsible and
24 I said that Japan should be responsible. That is my
25 answer.

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1 Q I shall question you on a completely different
2 phase. You have spoken of having seen the TANAKA
3 Memorial. In what language was this so-called memor-
4 ial written?

5 A What I saw was the Chinese translation.

6 Q Have you ever ascertained whether there was
7 a Japanese text of this so-called memorial?

8 A I have not seen the original Japanese version
9 of the memorandum.

10 Q This next question will be rather long. In
11 the contents of the TANAKA Memorial there are such
12 phrases as "FUKUSHIMA, Yasumasa's daughter of high and
13 noble birth became an adviser to a Mongolian prince,"
14 or that General YAMAGATA, Aritomo, who was already
15 dead in 1920, participated in a conference concerning
16 ways and means to cope with the Nine Power Treaty
17 which was signed in 1922. Also that General TANAKA,
18 Giichi was exposed to the danger of being assassinated
19 by a bomb at the pier in Shanghai. All these so-called
20 events are things which no Japanese can ever dream
21 ever happened, but didn't these points catch your
22 attention?

23 MONITOR: Slight correction. In reference
24 to General TANAKA, on his way back from Europe he
25 was exposed to the danger of being assassinated.

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1 A I do not know of this. It is surprising that
2 they know much more than I do.

3 MONITOR: Correction. I respect you for
4 having such a reach of ~~common~~ sense more than I do.

5 THE PRESIDENT: We will recess now for fifteen
6 minutes.

7 (Whereupon, at 1445, a recess was
8 taken until 1500, after which the proceedings
9 were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Your questions are very concise
4 and very clear. But, nevertheless, many of them have
5 been put before and answered.

6 BY MR. HAYASHI (Continuing):

7 Q The fact that the TANAKA Memorial does not
8 exist was made clear before this Tribunal by Admiral
9 OKADA, Keisuke. Do you not feel that this so-called
10 Memorial was cooked up for the purpose of instigating
11 anti-Japanese feeling?

12 THE PRESIDENT: This is the first time that
13 question has been put, Colonel.

14 COLONEL MORROW: Beg pardon?

15 THE PRESIDENT: I suppose you object to it?

16 COLONEL MORROW: I object to its materiality.
17 We have gone into this subject considerably. I doubt
18 the materiality of any further questioning about the
19 TANAKA Memorial. I raise the question.

20 THE PRESIDENT: He is suggesting it was cooked
21 for a certain purpose. I think we will take the answer.
22 We know what it will be.

23 Better repeat the question.

24 THE WITNESS: The question is not clear.

25 Q The fact that the TANAKA Memorial does not

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1 exist was made abundantly clear before this Tribunal
2 by Admiral OKADA, Keisuke. Did you not feel that this
3 book was cooked up for the purpose of instigating
4 anti-Japanese feeling?

5 A It does not matter very much whether TANAKA
6 Memorial ever existed or not. Even it may have been
7 destroyed or it was not existed at all. But the fact
8 that Japan occupied Manchuria and then North China and
9 then greater part of China and then Pearl Harbor Inci-
10 dent still remain.

11 Q Your answer is very far off from what I asked
12 you. My question was, did **you** not feel that this book
13 was cooked up for the purpose of instigating anti-
14 Japanese feeling in China?

15 A What I think is this, that the Chinese may not
16 know some existing facts, but they certainly would not
17 cook up some facts out of nothing.

18 THE PRESIDENT: Have you any new line of cross-
19 examination?

20 MR. HAYASHI: Yes, I do.

21 Q Are you aware of the fact that at the confer-
22 ence on Eastern Affairs held in July, 1927, Prime Min-
23 ister General TANAKA, Giichi, made clear his policy in
24 a speech which runs as follows: "The stabilization of
25 political conditions and the restoration of order within

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1 China should be done by the Chinese people themselves.
2 The stabilization of political conditions in the three
3 northeastern provinces also should depend upon the
4 efforts of these provinces themselves."

5 A I quite agree with that statement. The deplor-
6 able thing is that they have never followed this state-
7 ment.

8 Q I shall question you on another line. When
9 did the military training of students in North China
10 begin?

11 A The central government order was received in
12 the Spring of 1936. But prior to that some of the
13 schools had already put up these courses by themselves.
14 In 1937 there was some concentrated training.

15 Q You have stated that the chief of staff of the
16 Japanese forces in China at the time, in North China
17 at the time of the Lukuoohiao Incident was a Colonel
18 HASHIMOTO. Do you know his full name?

19 A The full name was HASHIMOTO, Gon.

20 Q You have stated also that the Japanese consul
21 at Kalgan was also named HASHIMOTO. Do you know his
22 full name?

23 A I am sorry, I forgot his full name. What I
24 know is only HASHIMOTO.

25 Q Did you know Consul HASHIMOTO well?

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1 A Yes, well.

2 Q Is this Consul HASHIMOTO among the twenty-
3 five defendants sitting in the dock here?

4 A No, I don't know.

5 Q You think he is not there.

6 MR. HAYASHI: That is all I have to ask.

7 THE PRESIDENT: Captain Kleiman.

8 CROSS-EXAMINATION (Continued)

9 BY CAPTAIN KLEIMAN:

10 Q General, was there a treaty signed in the year
11 1924 between the Soviet Government and the Chinese Gov-
12 ernment?

13 A That time I was in the army. I couldn't remem-
14 ber that.

15 THE MONITOR: Correction: That time I was
16 with troop duty and I can't remember it.

17 Q Well, do you remember any treaty that was
18 signed around that time between the Soviet Government
19 and the Chinese Government wherein it was agreed that
20 the Chinese Eastern Railway was to be managed by
21 directors of China and of the Soviet Government; that
22 neither of the parties would permit propaganda by any
23 of its organizations against the other party?

24 THE PRESIDENT: Can you enlighten the Tribunal
25 on the point you are hoping to make, Captain?

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1 CAPTAIN KLEIMAN: Yes, your Honor. I wish to
2 show the friction that existed between the Chinese
3 Government and the Japanese Government between the year
4 1924 and the year 1929 when the alleged TANAKA Plan was
5 supposed to have first been discovered. I wish to ask
6 three questions to lead up to that question, if it
7 please your Honor. It will expedite the trial. We
8 may have to call witnesses from China for that purpose,
9 and as I said once before, it helps in expediting the
10 trial if we can ask the questions now.

11 COLONEL MORROW: If the Court please, there is
12 a general rule, I take it, that the cross-examination
13 should be limited to the matters brought forth in chief.
14 I do not remember of any matters such as he refers to
15 that have been brought out in chief.

16 THE PRESIDENT: It might be convenient to
17 adopt such a rule, but I cannot say that it has been
18 adopted yet. But I will take the views of my col-
19 leagues.

20 (Whereupon, the Members of the Tribunal
21 conferred among themselves.)
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1 THE PRESIDENT: Colonel Morrow, this is a
2 matter ~~in~~ which there is a different practice in
3 different countries. I think Australia and Britain
4 have the same practice, and New Zealand. I think we
5 do, of course, allow any question which is relevant
6 to any issue arising in the trial at any stage, but
7 I understand, in Canada and in the United States, it is
8 different. We have come to no conclusion about this
9 matter yet.

10 In all events, Captain Kleiman, you have
11 failed to convince us, I think, that you should be
12 permitted to ask this question which, as I understand
13 it now, has no bearing on any issue. The relations
14 between the Soviets and China do not seem to have any
15 bearing on any point we have to decide. So, we will
16 disallow that question.

17 CAPTAIN KLEIMAN: May it please the Tribunal,
18 the TANAKA Plan is most definitely mentioned in this
19 witness' affidavit on page 3 of exhibit 199, and may
20 we not have an opportunity to bring out the circum-
21 stances under which the so-called discovery of this
22 so-called Plan took place to show that this Plan is
23 nothing more than a fake?

24 THE PRESIDENT: The question is disallowed
25 at this stage. You may be able to renew it when you

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1 have more to support it.

2 Q General, in the year 1927 did Chiang Kai-shek
3 exclude from the Kuomintang Party Chinese
4 communists?

5 COLONEL MORROW: Raise the question of
6 materiality, if the Court please.

7 CAPTAIN KLEIMAN: With reference to the
8 TANAKA Plan to show that it was a figment of the
9 imagination of Chinese communists to divert the
10 attention of propaganda activities of communists in
11 China against the so-called aggression of Japanese
12 in China and Manchuria.

13 THE PRESIDENT: I think we will resolve
14 this on the narrow ground that the witness has told
15 us all he knows about the TANAKA Plan. That is my
16 understanding of his evidence. We will disallow
17 the question.

18 Q General, in the year 1929 did Chinese police
19 raid the Soviet Consulate at Harbin and find con-
20 clusive proof that communist propaganda organization
21 was operating under the guise of consular activities?

22 THE PRESIDENT: That is too remote. The
23 question itself suggests no association of any issue
24 that I can discover. It is not even remote; I think
25 it is wholly immaterial.

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1 CAPTAIN KLEIMAN: Our purpose, if it please
2 the Tribunal, is to show the propaganda activity of
3 the communists in China at that time, to show the
4 circumstances under which this TANAKA Plan was devised
5 to show that this itself was a matter of propaganda
6 on the part of Chinese communists aided by other
7 communists.

8 THE PRESIDENT: The connection is still
9 missing. You may be able to establish it when you
10 call evidence.

11 CAPTAIN KLEIMAN: May I ask one question?
12 I will say it is of the same nature --

13 THE PRESIDENT: If it is the same, you may
14 not ask it.

15 CAPTAIN KLEIMAN: All right, your Honor.
16 No further questions, may it please the Tribunal.

17 MR. T. OKAMOTO: I am counsel OKAMOTO. I
18 wish to ask a few simple questions.

19 CROSS-EXAMINATION (Continued)

20 BY MR. T. OKAMOTO:

21 Q First, concerning the so-called Boxer
22 Protocol, did this Protocol limit the number of
23 troops to be stationed by each Allied country in
24 North China?

25 COLONEL MORROW: If your Honor please, I

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1 suggest the best evidence -- the Protocol is one of
2 the basic documents. It has been a document in this
3 case, in all events, and the document itself is the
4 best evidence. He is referring to the Protocol --
5 the night of September 7, 1901.

6 MR. T. OKAMOTO: I am merely testing the
7 witness' knowledge concerning the Boxer Protocol.

8 THE PRESIDENT: You can test his credibility,
9 not his knowledge.

10 MR. T. OKAMOTO: I shall put another ques-
11 tion then.

12 THE PRESIDENT: You can test his knowledge
13 of facts which he has presumed to state here, of
14 course.

15 Q In answer to a question put by Colonel War-
16 ren you stated that the Japanese Army had fifteen
17 thousand men in China -- in North China at the time
18 of the outbreak of the China Incident, is that cor-
19 rect?

20 A There was only -- there was estimated, from
21 reports I gathered, that at that time the Japanese
22 troop movements was so frequent between Manchuria and
23 China proper that they frequently come and go.

24 Q Aside from this question of coming and
25 going, do you admit that the strength of the Japan-

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1 ese forces in China was the same as stipulated in
2 the Boxer Protocol?

3 COLONEL MORROW: If the Court please, he
4 is bringing in the Protocol again. If I remember
5 distinctly, there is no provision as to number of
6 troops except as to what they are intended to be
7 used for.

8 THE PRESIDENT: The need for the troops
9 may regulate the numbers, of course.

10 Why two counsel for defense at the lectern?

11 Q Concerning the remarks made by the prose-
12 cutor, I should like to hear the witness' own state-
13 ment concerning the number of troops stationed in
14 China.

15 THE MONITOR: Because I believe that
16 the answer should be given by the witness, not by
17 the prosecutor.

18 A The witness' answer to the counsel's ques-
19 tion was: I am afraid that the number of Japanese
20 troops stationed in North China then was over what
21 was stipulated.

22 CHINESE MONITOR: Was in excess than what
23 was necessary for this purpose.

24 Q Who determines what is the number of troops
25 necessary?

CHING

CROSS

1 A The demarcation lies in how big the neces-
2 sity to station a certain number of troops to pro-
3 tect the railway line.

4 CHINESE MONITOR: From Peiping to the sea-
5 port -- maintain the peace and order along the
6 communication line as stated in the treaty.

7 Q But, as the prosecutor himself stated,
8 there is no provision in the Boxer Protocol limiting
9 the number of troops to be stationed in that area.
10 Who is to determine what is the minimum necessary
11 requirements?

12 A I think the commanders -- I mean the
13 British, American, French and Japanese commanders of
14 troops stationed there will have to decide for them-
15 selves according to the factual necessity.

16 Q Then, do you mean to say that it is the com-
17 manders of the various Allied troops who decide for
18 themselves what are the minimum necessary require-
19 ments?

20 A I think these commanders might have, pur-
21 suant to their governments' order, to decide the
22 number of troops to be stationed there. But I want
23 to point out that none of these powers had ever sta-
24 tioned any troop many times bigger than what is
25 factually needed.

CHING

CROSS

1 CHINESE MONITOR: Except Japan.

2 A (Continuing) except Japan.

3 Q You have excepted Japan, but do you not
4 admit that the complex interests possessed by Japan
5 in North China far exceed those of other nations
6 there?

7 A Yes, I admit.

8 Q The facts are, and these facts can be sus-
9 tained if we look up the records, that there are
10 only seven thousand -- there were only seven thousand
11 Japanese troops in China at the time. Do you agree
12 with this?

13 A I think it does not matter very much if
14 they had seven thousand or fifteen thousand men
15 stationed there in North China. I don't remember
16 that the Chinese Government ever said that the
17 fifteen thousand Japanese troops there were in ex-
18 cess.

19 CHINESE MONITOR: Correction: The Chinese
20 Government didn't at that time complain to the
21 Japanese that their troops was too much then.

22 Q Then I shall ask you on another phase: You
23 have stated that in 1937 there was no Communist Army
24 in North China; is that so?

25 A At that time only some schools, the students

CHING

CROSS

1 of which are somewhat left inclined -- but there
2 was never any Communist troop.

3 Q Do you know a general called Shih-Yusan?

4 A Yes, I do.

5 Q Did This General Shih-Yusan have any con-
6 nection with the Communist Army, or didn't he?

7 A In the year 1937 I believe that he did not
8 have any connection with communists, but whether he
9 had any connection with the communists after that I
10 don't know.

11 Q There is a province called Shansi among the
12 five provinces of Northern China. Was not that
13 province occupied at the time by Communist armies?

14 A The province of Shansi was never occupied
15 by Communist troops.

16 Q From what date to what date do you speak?

17 A The time I refer to is around July 7, 1937.

18 Q Before that, was that province ever occupied
19 by communists?

20 A No. But there was once they did attempt
21 to attack the province of Shansi, but they were
22 repelled by Chinese National Government troops to-
23 gether with the local government armies.

24 Q When did the Communist Army invade Shansi --
25 attack Shansi?

CHING

CROSS

1 A I cannot recall the exact date, but I
2 think it is around 1934. But one thing I can assure
3 you is that at the time when July 7 Incident -- 1937
4 Incident broke out, there was no communists in that
5 province.

6 Q Did not communist influence in North China
7 begin to expand after this attempt by communists to
8 occupy Shansi province in 1934, and was that not one
9 of the causes which led to the outbreak of the Sino-
10 Japanese conflict?

11 A This was but a pretext put up by the Japan-
12 ese militarists. As a matter of fact, at that time
13 there was no communist activities at all in any of
14 these provinces.

15 Q Then, when do you consider that the Chinese
16 Communist Party, which has now so much influence in
17 North China -- when do you consider that the Chinese
18 Communist Party began to gain its influence -- its
19 power?

20 A This, I should say, was taking place ever
21 since the outbreak of July 7, 1937 Incident. The
22 Japanese nurtured this movement.

23 THE PRESIDENT: We will adjourn now until
24 half-past nine tomorrow morning.

25 (Whereupon, at 1600, an adjourn-

1 ment was taken until Thursday, 25 July,
2 1946, at 0930.)

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